

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CONVOLVE, INC.,	§	
	§	
<i>Plaintiff,</i>	§	CIVIL ACTION NO. 2:08-CV-244-CE
	§	
v.	§	JURY TRIAL DEMANDED
	§	
DELL INC., et al.,	§	
	§	
<i>Defendants.</i>	§	
	§	

**STIPULATION OF THE PARTIES REGARDING CERTAIN PHYSICAL EXHIBITS
AND DEFENDANTS' MOTION TO STRIKE PORTIONS OF
CONVOLVE'S EXPERT REPORTS (DKT. NO. 443)**

Plaintiff Convolve, Inc. (“Convolve”) and Defendants Dell Inc., Western Digital Corporation, Hitachi, Ltd., and Hitachi Global Storage Technologies, Inc. (collectively “Defendants”) stipulate to the following:

1. Convolve agrees to withdraw its objections to certain physical devices on Defendants’ Trial Exhibit list specifically, JTX Nos. 398, 399, 456, 576-581, 586-592, 758-760, and 1394-1395, and that these devices can come into evidence, subject to Convolve’s inspection of the physical devices to confirm that the physical exhibits are as described on Defendants’ Exhibit List (*i.e.*, solely a visual inspection of the device).
2. Defendants agree to make the physical devices available for inspection in Marshall, Texas as soon as reasonably possible, to the extent they have not previously been produced. During the inspection, each physical device will be identified by its respective exhibit number.
3. Defendants agree that they will not question Dr. Singer with respect to discovery compliance on the Hawk drive.

4. Defendants agree to withdraw their Motion to Strike Portions of Convolve's Expert Reports (Dkt. No. 443) as moot.

5. The parties agree that this agreement does not affect exhibits that the parties have already agreed should be pre-admitted or that the Court has indicated should be pre-admitted.

6. The parties agree that this agreement does not affect the ability of the parties to offer these physical devices on Defendants' Trial Exhibit list specifically, JTX Nos. 398, 399, 456, 576-581, 586-592, 758-760, and 1394-1395 as demonstratives. The parties reserve the right to assert any objections to the manner in which demonstratives are used in trial.

Respectfully submitted,



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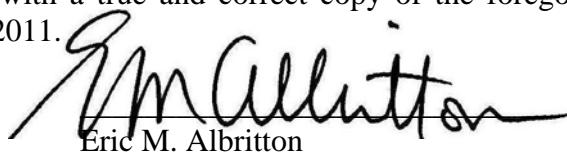
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email and/or fax, on this the 13th day of July 2011.



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